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In re Application of NAKAMURA :
U.S. Application No.: 09/509,968 :
Int. Application No.: PCT/JP99/04226 :
Int. Filing Date: 05 August 1999 :
Priority Date: 06 August 1998 :
Attorney Docket No.: 49774.20002.00 :
For: GAME APPARATUS AND :
COMMUNICATION GAME SYSTEM :

DECISION

This is in response to applicant's "Second Renewed Petition Under 37 C.F.R. § 1.137(b) and Petition Under 37 C.F.R. § 1.182" filed 04 March 2002.

BACKGROUND

On 05 August 1999, applicant filed international application PCT/JP99/04226, which claimed priority of an earlier Japan application filed 06 August 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 15 February 2000. The twenty-month period for paying the basic national fee in the United States expired at midnight on 06 April 2000.

On 04 April 2000, applicant filed national stage papers with the United States Designated/Elected Office (DO/EO/US) including, *inter alia*, the requisite basic national fee.

On 12 June 2000, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration had not been received.

On 17 April 2001, applicant filed a petition under 37 CFR 1.137(b) along with an executed declaration and a petition to correct the inventor's name.

On 16 July 2001, this Office mailed a decision dismissing the 17 April 2001 petitions because of a discrepancy between the inventor's name listed in the declaration and that listed in the international application.

On 17 October 2001, applicant filed a renewed petition under 37 CFR 1.137(b) and a petition under 37 CFR 1.182.

On 29 November 2001, this Office mailed a decision dismissing the 17 October 2001 petitions.

On 04 March 2002, applicant filed the present renewed petitions under 37 CFR 1.137(b) and 37 CFR 1.182.

DISCUSSION

I. Petition under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

Applicant has previously satisfied items (2), (3), and (4).

With regard to item (1), the declaration filed 17 April 2001 is acceptable.

II. Petition to Correct the Inventor's Name

The given name of the inventor is listed in the international application as "Takayuki" while the given name is listed in the declaration as "Takashi". The present renewed petition states that the mistake was due to a translation error. Applicant has supplied an affidavit from Yasuo Yajima, the person with apparent firsthand knowledge of the error, and an affidavit from the inventor. The affidavits state that the mistake was an inadvertent error without deceptive intent. Applicant's explanation for the discrepancy is accepted.

CONCLUSION


For the reasons set forth in §I above, the renewed petition under 37 CFR 1.137(b) is **GRANTED**.

For the reasons set forth in §II above, the petition under 37 CFR 1.182 is **GRANTED**.

A review of the application file reveals that proper petition fees were submitted on 17 April 2001. Thus, the additional petition fees submitted on 17 October 2001 and 04 March 2002 were paid in excess. Accordingly, \$260.00 will be refunded to Deposit Account Number 03-1952 pursuant to 37 CFR 1.26.

The application has an International Filing Date of 05 August 1999 and a date under 35 U.S.C. 371 of 17 April 2001.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.


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